

**MONTEBELLO OVERSIGHT BOARD
AGENDA STAFF REPORT**

TO: Honorable Chair and Members of the Oversight Board

FROM: Francesca Tucker-Schuyler, Executive Director of Successor Agency

BY: Christopher G. Cardinale, Successor Agency Legal Counsel

SUBJECT: Consideration of Repayment Schedule for Amounts Owed to Low and Moderate Income Housing Fund of the Former Community Redevelopment Agency of the City of Montebello

DATE: February 26, 2014

OBJECTIVE

Obtain Oversight Board approval of a repayment schedule for amounts owed to the low and moderate income housing fund (“**Low/Mod Deferrals**”) of the former Community Redevelopment Agency of the City of Montebello (“**Agency**”).

BACKGROUND

The Agency was dissolved effective February 1, 2012 by way of Assembly Bill (“**AB**”) 1x 26 and the California Supreme Court’s decision in *California Redevelopment Association v. Matosantos*. As authorized by AB 1x 26 (as subsequently amended by AB 1484, the “**Dissolution Act**”), the City Council of the City of Montebello (“**City**”) adopted a resolution electing to serve as the “successor agency” to the dissolved Agency (the “**Successor Agency**”), and thereby assumed responsibility for winding down the Agency’s affairs.

The Successor Agency’s responsibilities include performing all “enforceable obligations,”¹ which include amounts borrowed from or owing to the low and moderate income housing fund of the Agency which had been deferred as of the Agency’s date of dissolution; provided that, the Oversight Board approves a repayment schedule for such amounts.² Repayment of Low/Mod Deferrals is authorized following the 2013-14 fiscal year, and is subject to the statutory repayment formula set forth in Health & Safety Code section 34176(e)(6)(B). This formula provides that repayment shall be one-half (1/2) of the increase between the amount distributed to taxing entities by way of the “residual” RPTTF payment³ in the fiscal year in which the deferral repayment is made, when compared to the residual RPTTF payment made in the 2012-2013 base year.⁴

¹ HSC § 34177(a).

² HSC § 34171(d)(1)(G).

³ See HSC § 34183(a)(4).

⁴ HSC § 34176(e)(6)(B).

Once a repayment schedule is approved and Low/Mod Deferrals are “enforceable obligations,” such amounts are payable to the Montebello Housing Successor for use in developing low and moderate income housing projects of benefit to the community.⁵

DISCUSSION

As of its dissolution date, \$7,656,160 was owed to the Agency’s low and moderate income housing fund. (**Attachment “A”** [excerpt from Housing Asset List].) Successor Agency staff has prepared a proposed repayment schedule for these amounts. The schedule adopts the statutory formula set forth in Health & Safety Code section 34176(e)(6)(B), and provides an estimated amortization period. The Department of Finance has issued email directives to successor agencies indicating a repayment schedule that adopts the formula in Section 34176(e)(6)(B) is appropriate. (**Attachment “B”** [Finance Correspondence re Repayment Schedule].)

RECOMMENDATION

It is recommended that the Oversight Board adopt the attached repayment schedule for Low/Mod Deferrals of the former Agency.

ATTACHMENTS

“A” – Housing Asset List Excerpt

“B” – Finance Correspondence re Repayment Schedule

⁵ HSC §§ 34176(e)(6)(A), 34176(d).

EXHIBIT A

Exhibit G - Deferrals

City of Montebello
Inventory of Assets Received Pursuant to Health and Safety Code section 34176 (a) (2)

Item #	Purpose for which funds were deferred	Fiscal year in which funds were deferred	Amount deferred	Interest rate at which funds were to be repaid	Current amount owed	Date upon which funds were to be repaid
1	Montebello Hills Housing Deferral (3333.4(d) & 3333.6 (g))	1977-1996	\$ 6,516,982		\$ 6,516,982	\$75K Per yr through 2012- 2020; \$700K 2021-2027, balance in 2028
2	SERAF (33690 (c) (1) & 33690.5 (c) (1))	2009-2010 & 2010-2011	\$ 1,139,178		\$ 1,139,178	2010 Due in 2014, 2011 due in 2015
3	HUD Obligation 33691 (a) (1) (C)		\$ 1,300,505		\$ 1,300,505	No designated date for repayment
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From: RedevelopmentAdministration@dof.ca.gov
[<mailto:RedevelopmentAdministration@dof.ca.gov>]
Sent: Friday, January 31, 2014 4:58 PM
Subject: SERAF loan repayments and/or deferrals

Dear Successor Agencies:

On January 29, 2014, Finance e-mailed Successor Agencies providing guidance on former redevelopment agency (RDA)/sponsoring entity loan agreements. This sparked some inquiry related to the Supplemental Educational Revenue Augmentation Fund (SERAF) loan and deferral repayments.

HSC section 34191.4 (b) (2) (B) requires any outstanding amounts borrowed from or owed to the Low and Moderate Income Housing Fund (LMIHF) for purposes of the SERAF to be retired prior to requesting repayment for RDA/sponsoring entity loans. Pursuant to HSC section 34176 (e) (6) (B), the repayments related to SERAF are subject to the same formula restrictions as RDA/sponsoring entity loans. Specifically, the maximum repayment amount authorized each fiscal year shall be equal to one-half of the increase between “the amount distributed” to the taxing entities in that fiscal year and the amount distributed to taxing entities in the 2012-13 base year.

Further, pursuant to HSC section 34171 (d) (1) (G), amounts borrowed from, or payments owing to the LMIHF are enforceable obligations, provided the Agency’s Oversight Board approves a repayment schedule. Therefore, a separate OB action is required, approving a repayment schedule for amounts due to the Low and Moderate Income Housing Asset Fund. Additionally, this OB action must be emailed individually to the RDA Administration email inbox at: Redevelopment_Administration@dof.ca.gov.

Since the repayment is restricted to the formula outlined in HSC section 34176 (e) (6) (B), Finance would not oppose to a repayment schedule that indicated the repayment amount for each fiscal year will be equal to the maximum amount allowed pursuant to HSC section 34176 (e) (6) (B).

Sincerely,

Department of Finance
Redevelopment AgencyAdministration
(916) 445-1546

City of Montebello Successor Agency Proposed LMIHF Deferral Repayment Schedule

Repayment Schedule Shall Be That Set Forth In HSC 34176(e)(6)(B):

one half (1/2) of the increase between the amount distributed to taxing entities pursuant to HSC 34183(a)(4) in the fiscal year in which the deferral payment is made, and the amount distributed to taxing entities in the 2012-2013 base year.

Estimated Repayment Schedule for Amounts Owed to Former Agency's LMIHF Per Formula in HSC 34176(e)(6)(B):

SERAF		Housing Deferral of Former Montebello Hills Project Area	
Period	Amount	Period	Amount
14-15A	105,010	14-15A	105,010
14-15B	105,010	14-15B	105,010
15-16	210,000	15-16	210,000
16-17	210,000	16-17	210,000
17-18	210,000	17-18	210,000
18-19	210,000	18-19	210,000
19-20	89,158	19-20	330,842
		20-21	420,000
		21-22	420,000
	1,139,178	22-23	420,000
		23-24	420,000
		24-25	420,000
		25-26	420,000
		26-27	420,000
		27-28	420,000
		28-29	420,000
		29-30	420,000
		30-31	420,000
		31-32	420,000
		32-33	96,120

6,516,982

* HSC 34171(d)(1)(G) requires a repayment schedule to be approved by the Oversight Board prior to LMIHF deferrals being recognized as an "enforceable obligation," even though HSC 34176(e)(6)(B) establishes said repayment schedule by statute as follows: repayment shall be equal to ½ of the increase in the "residual" RPTTF payment to taxing entities (HSC 34183(a)(4)) in the applicable fiscal year when compared to the "residual" amount distributed to taxing entities in the 2012-13 base year. Because "residual" amounts cannot be established with certainty, the above repayment schedule represents the Successor Agency's best estimate of application of HSC 34176(e)(6)(B). That said, the schedule proposed by the Successor Agency is the maximum payments authorized by HSC 34176(e)(6)(B)

OVERSIGHT BOARD RESOLUTION NO.____

**A RESOLUTION OF THE MONTEBELLO OVERSIGHT
BOARD APPROVING A REPAYMENT SCHEDULE FOR
AMOUNTS OWED TO THE LOW AND MODERATE
INCOME HOUSING FUND OF THE FORMER
COMMUNITY REDEVELOPMENT AGENCY OF THE
CITY OF MONTEBELLO**

WHEREAS, the former Community Redevelopment Agency of the City of Montebello (“Agency”) was a community redevelopment agency organized and existing under the California Redevelopment Law;

WHEREAS, the Agency was dissolved effective February 1, 2012, by way of Assembly Bill (“AB”) 1x26 (as subsequently amended by AB 1484, the “Dissolution Act”) and the California Supreme Court’s decision in *California Redevelopment Association v. Matosantos* (2011) 53 Cal.4th 231;

WHEREAS, the Dissolution Act created a “successor agency” for each dissolved redevelopment agency, and charged them with completing various tasks and obligations geared towards “winding down” the affairs of their respective redevelopment agency;

WHEREAS, the Dissolution Act also created an “oversight board” for each successor agency, and charged them with overseeing, reviewing, and approving enumerated successor agency actions;

WHEREAS, by resolution of the City Council, the City of Montebello serves as the successor agency to the dissolved Agency (“Successor Agency”), and the Montebello Oversight Board is the statutorily created oversight board for the Successor Agency (“Oversight Board”);

WHEREAS, the Dissolution Act requires the Successor Agency to perform and make payments due on all “enforceable obligations”;

WHEREAS, the Dissolution Act defines “enforceable obligations” as including amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund of a former redevelopment agency which had been deferred as of February 1, 2012 (“Low/Mod Deferrals”), provided that a repayment schedule for such amounts is approved by the Oversight Board;

WHEREAS, Low/Mod Deferrals qualify for repayment following the 2013-2014 fiscal year, and such repayment is subject to the formula set forth in Health and Safety Code section 34176(e)(6)(B);

WHEREAS, the Successor Agency has prepared the attached repayment schedule for the Low/Mod Deferrals (“Repayment Schedule”) pertaining to the former Agency for the Oversight Board’s consideration and approval; and

WHEREAS, if approved by the Oversight Board, the Low/Mod Deferrals shall constitute an “enforceable obligation” payable to the City of Montebello Housing Successor, and such funds will be available for use in completing housing projects of benefit to low and moderate income families.

NOW THEREFORE, THE MONTEBELLO OVERSIGHT BOARD HEREBY FINDS, DECLARES, AND RESOLVES AS FOLLOWS:

SECTION 1. The foregoing Recitals are incorporated into this Resolution by this reference, and constitute a material part hereof.

SECTION 2. The Oversight Board hereby approves the Repayment Schedule attached hereto this Resolution, and as such may be amended by the Successor Agency from time to time in accordance with the repayment formula set forth in Health & Safety Code section 34176(e)(6)(B).

SECTION 3. The Oversight Board authorizes and directs Successor Agency staff to submit the Repayment Schedule to the California State Department of Finance for review, and to take such further actions with respect thereto as is required by the Dissolution Act.

SECTION 4. The Oversight Board Secretary shall certify to the passage and adoption of this resolution, which shall become effective immediately upon adoption.

PASSED, APPROVED and ADOPTED this 26th day of February, 2014.

Richard Bruckner, Chairman

ATTEST:

Ivonne Evelyn Umana, Deputy Clerk
County of Los Angeles, Board of Supervisors
Acting as Secretary to the Montebello Oversight Board

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City of Montebello Oversight Board at a special meeting held on the 26th day of February, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

VACANT: Chancellor of the California Community Colleges Appointee

Ivonne Evelyn Umana, Deputy Clerk
County of Los Angeles, Board of Supervisors
Acting as Secretary to the Montebello Oversight Board